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the public, where any such exist in Ireland, the precarious tenure of that scanty provision, depending almost entirely on the manner this subject may affect the minds of Grand Juries, fluctuating in their composition, and consequently uncertain in their opinions; the connexion of those asylums either with prisons or houses of industry, precluding the application of due means to prosecute, as far as may be, the attainment of cure or relief for these unhappy objects, from the incongruous nature of the institutions with which they are connected; the diversion of much of the funds properly belonging to the infirm poor who are not insane, to supply the deficiency in means allotted for the support of the lunatics, and the consideration that under the present system any county can at pleasure throw upon its more humane neighbours the burthen of supporting those whom it is more peculiarly its own duty to relieve, or suffer them to wander at large, unprotected and unprovided for, until the commission of some enormous crime shall place at the bar of justice an unhappy being divested of all responsibility for his actions:

All these causes have induced the Governors of the House of Industry of Waterford to intreat the friends of suffering humanity through Ireland, to unite with them in pressing on the consideration of Parliament in the ensuing session, this work of Benevolence and Charity, the urgency of which, in the case of England, the Legislature has so recently and decidedly recognised.

By direction of a Board of Governors of the House of Industry of the County and City of Waterford specially convened for consideration of this subject, 14th October, 1813,

JOHN NEWPORT, Chairman.

TOLLS.

(From the Freeman's Journal.)

The taking of tolls is an institution of great antiquity, the word being Saxon. It is properly a payment made in towns, markets, and fairs for goods and cattle bought and sold. Toll is a reasonable sum of money due to the owner of the fair or market upon sale of things tollable within the same.

Tolls were not granted for the private interest of corporate cities or towns, or

lords of manors, but for public utility. In the times of the Saxons, and for centuries after, few of those persons who dealt in goods and cattle and who attended fairs and markets could write: indeed, nor many of the nobility or gentry: and, therefore, by the ancient law of the land, the buyers of corn or cattle were to pay toll in testimony of the contracts lawfully made; for toll was first invented that contracts in markets and fairs should be openly made before witnesses, and private contracts were held unlawful.

From this it follows, that the property of things sold in a market or fair is not altered without paying toll, as has been determined in many cases.

Toll being a matter of private right for the benefit of the lord, is not incident to a fair or market; and if the King grants a man a fair or market, and grants no toll, the patentee shall have no toll.

So if the toll granted be outrageous, the grant of the toll is void, and the market is free.

Tolls must be for very small sums. They must be reasonable, for the King cannot grant a burthensome toll.

Lord Coke says, and there is no better authority, that toll in fairs is generally taken upon the sale of cattle, but in markets for grain only; and the lord may seize until satisfaction is made him. It is always to be paid by the buyer, unless there be a custom to the contrary: and nothing is tollable until the sale, unless it be by proscription, time out of mind.

By statute 9. Edw. 1. ch. 91, if toll be unreasonable it is punishable, and what shall be deemed reasonable is to be determined by the judges of the law, when it comes judicially before them: and toll is unreasonable and outrageous, when a reasonable toll is due and an excessive toll taken.

If excessive toll be taken in a market town, by the lord's consent, the franchise is forfeited; and, if by other officers, they shall pay double damages and suffer imprisonment, Stat. Westm. 1. 3. Edw. I.

Taking excessive toll is of course *extortion coloris officii*, and may be punished by indictment at common law. Or an action of trover will be against the toll-gatherer detaining goods; or of trespass, or of money had and received by him to the payer's use.

CITY OF DUBLIN TOLLS.—These amount to an enormous annual revenue, they were

granted by royal charter, and have been confirmed by acts of Parliament; but the cause of the grant having ceased, and the policy of continuing these imposts no longer existing, they have become rather injurious to the interest of the freemen of the city, than useful, and severely oppressive, not only on those inhabitants who are not freemen, but to all persons living in the vicinage of the metropolis, or bringing up from the more remote parts of the country, cattle, grain, fowls, and under every other species of victuals and commodity, as flesh, fish, fowl, fruit, &c., for the use or sustenance of the inhabitants, whereby the market prices are increased, a grievance which operates severely on the poor, and calls loudly for redress.

The original cause of these tolls was for the public good, to keep in repair the walls, the gates, and the portcullies of the city, a vestige of which scarcely remains this day. The walls of Jericho, of Troy, or of Carthage, have not been more completely razed than those of Dublin.

It appears that Dublin tolls were afterwards appropriated to the paving and cleansing the streets of the metropolis. This is recognized by statute 26, Geo. 3. c. 61. which recites that the cleansing the city had been defrayed by the Corporation, out of the revenue arising by tolls and customs; and then enacts, that the sum of 2000*l.* per annum shall be paid by the new Lord Mayor, &c. to the new directors and commissioners, out of the said tolls and customs to the same use. Whether this has been complied with, is an object worthy of astute inquiry and serious consideration: indeed, it appears by a return of the commissioners of accounts some years ago, that a very enormous sum was due by the Corporation of the city: and it follows, of course, that if the Corporation do not appropriate that annual sum, these tolls and customs ought to be discontinued, for the ease of the public; and surely there ought to be an investigation as to the manner and to whom that revenue is now appropriated. Is it when received, lodged with the Lord Mayor, or has it been heretofore paid into the hands of the city treasurer? The grant by charter appears now to be no longer existing, upon the principle in which it originated,

“public utility,” but, as is reported, has become a fund for *private interest*, the people at large having no benefit therefrom. The grievance has become afflicting upon the poorer orders, both of sellers and purchasers. Toll is taken for every basket of eggs, for every pound of butter, upon rabbits, wild fowl, and vegetables, which the cottager brings to market; it has become burthensome, and as such it is not lawful: for, as before stated, the king cannot grant burthensome toll, and clearly, the city cannot levy one, or if they do, it is a forfeit of their franchise. The remedy for trying the rights are above pointed out, and the question ought to be brought before a judicial tribunal, having competent authority.

These city tolls being farmed out, the rentors, or toll-gatherers, of course extort as high a custom as possible to increase their profits, and they annually add to the unreasonableness of their demands. They like outposts at the end of every street, that terminates in the county, and raise contributions and money, which if unreasonable are against law, and militate with the first object of sound policy—the

PUBLIC GOOD.

P. S. It should also become an object of inquiry, whether the statute law of this land has been infringed. By 25 Hen. 6. c. 3. no custom shall be taken in the king's highway, or elsewhere, but in cities, boroughs or market towns, where they are bought or sold, or brought to be sold. Penalty seventy shillings for every penny.

By 4 Anne c. 8. no toll is payable for cattle or goods carried into or through any city, borough, or other place, when not sold, consumed, or slaughtered. What say the Dublin toll exactors to this?

So same statute—cattle unsold may be carried away without toll. Penalty, first offence ten shillings, second offence 1*l.* to party seizing and poor, before two justices.

Chief magistrates of cities, &c. to have a schedule of tolls, claimed by the corporation, hung up every market-day for a month after Michaelmas, conspicuously in market houses. Penalty 110. 1. Geo. 5. ch. 170. Regulation where goods are seized for a corporation, 32. Geo. 5. c. 29.